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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,118	12/31/2003	Peter Sterling Mueller	893-2 CIP II /DIV	9765
23869	7590	03/02/2006	EXAMINER	
HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791			JONES, DWAYNE C	
			ART UNIT	PAPER NUMBER

1614

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/750,118	MUELLER, PETER STERLING	
	Examiner	Art Unit	
	Dwayne C. Jones	1614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-7,10,11,18,19,22,23,26-28 and 31-41 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) See Continuation Sheet are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1 and 3, drawn to a method of enhancing or stimulating neurogenesis, classified in class 514, subclass 646+.
 - II. Claims 5-7, drawn to a method of treating symptoms of Cerebral Palsy, classified in class 514, subclass 646+.
 - III. Claims 10-11, drawn to a method for the treatment of the symptoms of Torticollis, classified in class 514, subclass 646+.
 - IV. Claims 14-17, drawn to a method for the treatment of the symptoms of Dystonia, classified in class 514, subclass 646+.
 - V. Claims 18-19, drawn to a method for the treatment of the symptoms of Dyskinesia, classified in class 514, subclass 646+.
 - VI. Claims 22-23, drawn to a method for the treatment of the symptoms of Institutionalization and Concentration Camp Syndromes, classified in class 514, subclass 646+.
 - VII. Claims 26-28, drawn to a method for the treatment of the symptoms of Dementia, classified in class 514, subclass 646+.
 - VIII. Claims 31-32, drawn to a method for the treatment of neurological, behavioral, and cognitive disorders, classified in class 514, subclass 646+.

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- IX. Claim 33, drawn to a method for the treatment of the symptoms of Sick Building Syndrome, classified in class 514, subclass 646+.
- X. Claim 34, drawn to a method for the treatment of the symptoms of Gulf War Syndrome, classified in class 514, subclass 646+.
- XI. Claims 35-38, drawn to a method for the treatment of the symptoms of Reflex Sympathetic Dystrophy Syndrome or Complex Regional Pain Syndrome, classified in class 514, subclass 646+.
- XII. Claim 39, drawn to a method for the treatment of the symptoms of Retinitis Pigmentosa, classified in class 514, subclass 646+.
- XIII. Claim 40, drawn to a method for the treatment of the symptoms of organic brain impairments, classified in class 514, subclass 646+.
- XIV. Claim 41, drawn to a method for the treatment of the sexual disorders, classified in class 514, subclass 646+.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I and (II-XIV) are unrelated. Inventions are unrelated if it can be shown that they different effects. In the instant case the different inventions, are each directed to treating a variety of separate and distinct diseases and symptoms of various disease states.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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4. Claims 1, 5, 6, 10, 18, 22, 26, and 27 are generic to the following disclosed patentably distinct species: a compound that is a selective inhibitor for dopamine, serotonin, and norepinephrine.

5. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

6. Claim 18 is generic to a plurality of disclosed patentably distinct species comprising Dyskinesia, Tardive Dyskinesia, Lingual Dyskinesia and Facial Dyskinesia. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

7. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

8. Claims 26 and 27 are generic to a plurality of disclosed patentably distinct species comprising Dementia, Alzheimer's dementia, and non-Alzheimer's dementia.

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Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

9. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

10. A telephone call to the attorney is not required where: 1) the restriction requirement is complex, 2) the application is being prosecuted pro se, or 3) the examiner knows from past experience that a telephone election will not be made, see MPEP Sect. 812.01.

11. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

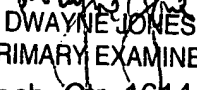
Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. C. Jones whose telephone number is (703) 308-4634. The examiner can normally be reached on Mondays through Fridays from 8:30 am to 6:00 pm. The examiner can also be reached on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel can be reached on (703) 308-4725. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-

1235.


DWAYNE JONES
PRIMARY EXAMINER
Tech. Ctr. 1614
February 28, 2006

Continuation of Disposition of Claims: Claims subject to restriction and/or election requirement are 1,3,5-7,10,11,18,19,22,23,26-28 and 31-41.